IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 21826 of 2003

Between:

Ch. Praveen Kumar S/o. Adhikari, aged 30 years

Occ:Business, Flat No.108, A.C.Guards, Hyderabad

..... PETITIONER

AND

1 The Depot Manager, APSRTC Midhani Depot, Phisalbanda, Hyderabad
2 The Divisional Manager, APSRTC Transport Corporation, Hyderabad.
3 The Regional Manager [HCR] APSRTC., Hyderabad City Region, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or directions more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents in issuing proceedings vide No.P1/243[1]/2003-DVM[H] dated 1.10.2003 for forfeiting the Security Deposit and for taking steps for cancelling the licence without considering the reply of the petitioner dated 10-10-2003 as illegal, contrary to law and arbitrary and consequently direct the respondents to stop the collection of rent up to fixing of the starting of rental date and collected excess interest, forthwith in the interest of justice.

Counsel for the Petitioner:MRS.SOFIA BEGUM

Counsel for the Respondents 1 to 3: MR.V.T.M.Prasad, S.C. for APSRTC

The Court made the following :

O R D E R:

Heard both the learned counsel appearing for the petitioner as well as the A.P.S.R.T.C.

The petitioner was allotted a shop for STD/Xerox Stall at Women's College, Koti Bus Stop point, Hyderabad on payment of licence fee of Rs.11,216/- per month which was allotted on 22.03.2003. As per the terms and conditions of the notification at Sl.No.8, the tenderer shall install the telephone booth and commence the business within two months from the date of issuance of allotment by the Corporation or shall pay the licence fee from the third month onwards whether the business is commenced or not, failing which the allotment is liable to be cancelled without intimation.

According to the petitioner the shop was allotted on 22.03.2003 and the petitioner has commenced his business from 05.06.2003 onwards. But, as per condition No.8 of the terms and conditions of the tender, the licence fee has to be paid immediately after expiry of two months i.e. from 22.05.2003. But, the respondents adjusted the rents prior to the period from 22.05.2003 and therefore, the petitioner was having grievance not to collect any rent prior to 22.5.2003, but as the security deposit includes one month advance rent, the petitioner would be liable to pay the licence fee only from 22.06.2003 onwards.

The learned counsel for the petitioner stated that prior to issuance of notice, two months rent has been paid by the petitioner, but without adjusting the said rents, as payable from 22.5.2003, they have adjusted the said rents from the month of April only. Therefore, aggrieved by the said action of the respondents, the petitioner filed this Writ Petition and obtained an absolute unconditional suspension of the said notice resulting which he did not pay even the agreed licence fee from 22.05.2003 onwards regularly.

It is stated that the total period of four months amount has been paid. Admittedly, the petitioner is in huge arrears of licence fee. The learned counsel appearing for the petitioner is willing to pay the entire arrears within a reasonable time and if the said arrears are not paid, it will be open for the Corporation to take

appropriate action.

Having regard to the facts and circumstances of the case, the petitioner is directed to pay the entire arrears of rent payable from 22.05.2003 after deducting the amounts already paid within two weeks from the date of receipt of this order, failing which it is open for the respondents to evict the petitioner and take over the premises in question and also take appropriate action for recovery of the arrears as per law.

The learned counsel for the respondents submits that the petitioner may be directed to pay interest. As there is a dispute with regard to payment of licence fee as to whether from 22.03.2003 or 22.05.2003 and now that it has been held that the licence fee payable by the petitioner is only from 22.05.2003, I am not inclined to pass any orders with regard to payment of interest on the amount payable by the petitioner.

Accordingly, the Writ Petition is disposed of. No costs.

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V.ESWARAIAH, J

Dated:25-03-2005

CCM

To

1 The Depot Manager, APSRTC Midhani Depot, Phisalbanda, Hyderabad
2 The Divisional Manager, APSRTC, Hyderabad.
3 The Regional Manager [HCR] APSRTC., Hyderabad City Region, Secunderabad.

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